

Message Text

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ORIGIN EB-07

INFO OCT-01 EA-07 ISO-00 L-03 AID-05 AGRE-00 COME-00
TRSE-00 OMB-01 STR-04 SP-02 CIAE-00 INR-07 NSAE-00
SSO-00 INRE-00 NSCE-00 USIE-00 SS-15 NSC-05 PRS-01
/058 R

DRAFTED BY EB/OF/FFD-STJOHNSON/LW

APPROVED BY C/FFP-KBITTERMANN

L/EB-CROH

EA/PHL -JSARTORIUS

AID/FFP/FRD-AMERCKER

EB/OF/FFD-RMOGDEN

AID/GC-ARICHSTEIN

AID/FFP-CWEDEN

USDA/OGSM-GTUSSEY

EB/OF/JFERCH

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FM SECSTATE WASHDC

TO AMEMBASSY MANILA IMMEDIATE

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E.O. 11652: N/A

TAGS: EAGR, RP, VN

SUBJECT: FY 1977 PL 480 TITLE I SALES AGREEMENT

REF: (A) STATE 6101, (B) MANILA 215, (C) MANILA 348

1. WE ASKED YOU TO DELAY OPENING NEGOTIATIONS ON A NEW
PL 480 AGREEMENT SO AS TO ALLOW TIME TO EXAMINE THE LEGAL
IMPLICATIONS FOR TITLE I ASSISTANCE TO THE PHILIPPINES OF
POSSIBLE TRADE BETWEEN THE PHILIPPINES AND VIETNAM. AS
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YOU ARE NO DOUBT AWARE, SECTION L03(D)(3) OF THE PL 480
ACT STATES IN PART THAT THE PRESIDENT SHALL NOT MAKE
SALES AGREEMENTS UNDER TITLE I OF THE ACT WITH "ANY NATION
WHICH SELLS OR FURNISHES OR PERMITS SHIPS OR AIRCRAFT UNDER
ITS REGISTRY TO TRANSPORT TO OR FROM CUBA OR NORTH VIETNAM
ANY EQUIPMENT, MATERIALS, OR COMMODITIES SO LONG AS THEY
ARE GOVERNED BY A COMMUNIST REGIME". LEGAL OPINION HERE

HAS INTERPRETED THAT PROVISION TO APPLY ONLY TO TRADE CARRIED OUT BY GOVERNMENT ENTITIES OR CARRIED IN VESSELS OR AIRPLANES REGISTERED IN THE COUNTRY IN QUESTION. FURTHERMORE, THE PRESIDENT IS GIVEN AUTHORITY TO WAIVE THIS EXCLUSION SHOULD HE FIND IT IN THE NATIONAL INTEREST TO DO SO.

2. IN THE CASE OF THE PHILIPPINES THERE IS NO TRADE AT PRESENT AND, THEREFORE, WE HAVE DETERMINED THAT SECTION 103 (D)(3) HAS NO BEARING ON THE PROPOSED NEGOTIATION OF THIS

PL 480 AGREEMENT. YOU SHOULD PROCEED WITH THE NEGOTIATION OF THAT AGREEMENT AS INSTRUCTED IN STATE 5895.

3. IF, HOWEVER, THE PHILIPPINE CHAMBER OF COMMERCE DELEGATION SUCCEEDS IN ESTABLISHING TRADE WITH VIETNAM, THAT TRADE MAY CAUSE SECTION 103(D)(3) TO COME INTO EFFECT REGARDING ANY FUTURE PL 480 TITLE I AGREEMENTS. YOU SHOULD, WITHIN THE LIMIT OF YOUR ABILITIES, KEEP PHILIPPINE-VIETNAMESE TRADE, SHOULD IT DEVELOP, UNDER REVIEW AND REPORT SIGNIFICANT DEVELOPMENTS.

4. FYI. AT THIS TIME WE DO NOT ANTICIPATE ANY SUBSTANTIVE PROBLEM IN OBTAINING A WAIVER OF SECTION 103(D)(3) FOR THE PHILIPPINES SHOULD THE NEED EVER ARISE. END FYI. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SALES, AGREEMENTS, PL 480 TITLE 1, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 17-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE010731
Document Source: CORE
Document Unique ID: 00
Drafter: STJOHNSON/LW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770017-0494
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770144/aaaabmre.tel
Line Count: 88
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 163bdbd5-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 STATE 6101, 77 MANILA 215, 77 MANILA 348
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 23-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3578678
Secure: OPEN
Status: NATIVE
Subject: FY 1977 PL 480 TITLE I SALES AGREEMENT
TAGS: EAGR, RP, VN
To: MANILA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/163bdbd5-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009